Recipient Appeals 101

A Case Worker's Guide to Handling a Client Appeal

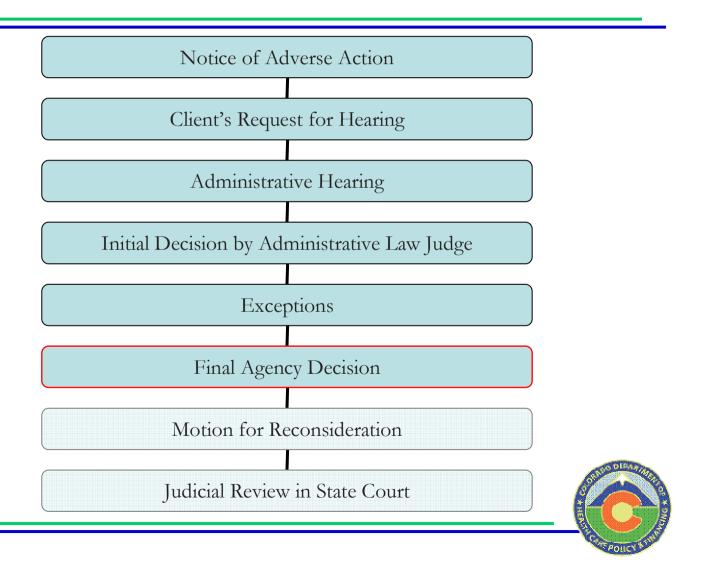




Presentation Objectives

- Walk through the Client Appeals Process
 - Define key terms
 - Clarify timelines
 - Examine potential outcomes
- Clarify case worker responsibilities
- Provide tips and pointers to make the process smoother





What Starts the Ball Rolling?

A client can appeal any of the following adverse actions:

- -Termination, reduction, or suspension of eligibility or services
- -Transfer or discharge from nursing facility
- -Adverse determination regarding preadmission screening and annual resident review
- -Application for services is denied or not acted upon with reasonable promptness



How Does the Client Know?

- Clients are notified of the adverse action to them through a written letter with appeal rights
- This letter must inform the client of the action to be taken, the reason for the action, when it will happen, and how to appeal



Notice of Action

Must contain the following:

- A statement of the action
- The reasons for the intended action
- The specific regulation(s) that support the action or the change in federal or state law that requires the action
- An explanation of the individual's right to request an evidentiary hearing if one is available, or in actions based on a change in law, the circumstances under which a hearing will be granted



Notice of Action (Continued)

Must contain the following:

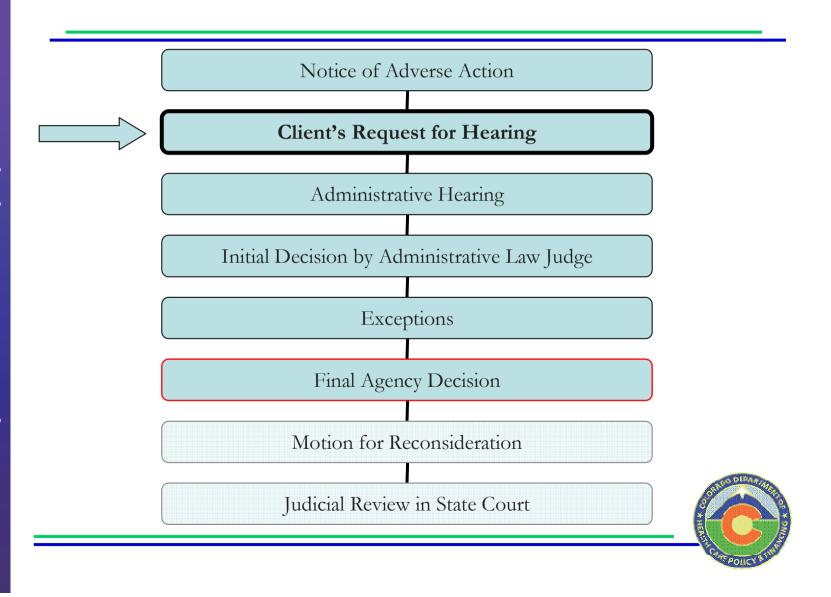
- The method by which the individual may obtain a hearing
- That the individual may represent himself or use legal counsel, a relative, friend, or other spokesperson at the hearing
- An explanation of the circumstances under which Medicaid is continued if a hearing is requested (See 10 CCR 2505-10, Section 8.057.5.)



Tips: Notice of Adverse Action

- Make sure you have cited the proper authority for the action either state regulation or both state and federal regulation
- A wrong citation could invalidate the notice
- Make sure the notice contains the correct effective date





Client's Actions to Appeal

 Request for hearing must be in writing



- Client has 30 days from date of notice to appeal an action concerning Medicaid eligibility, but only 20 days for other adverse actions
- Must be <u>received</u> by Office of Administrative Courts by deadline



Maintaining Benefits

- When a client requests a hearing before the date of action, his benefits continue during the appeal
- The client does not have to ask for continuation of benefits in order to receive them



How do I learn of a client's intent to appeal?

- The client advises you directly that he wants to file an appeal
 - -You must assist the client
- You receive a Notice of Hearing from the Office of Administrative Courts (OAC)



Notice of Hearing – Act on It!

- When client files an appeal, determine if it was filed by the appropriate deadline
 - 20 or 30 days, depending on the action
- Be ready to act quickly
 - By rule, hearing is to be scheduled 20-45 days from date of appeal letter
- If not already done, get the file organized as soon as you know the client asked for a hearing

Tips: Dealing with an Untimely Appeal

- The Office of Administrative Courts will probably accept a late appeal
- It is your responsibility to challenge an untimely appeal
 - File motion to dismiss for lack of subject matter jurisdiction, pursuant to C.R.C.P. 12(b)(1)
 - According to State Rules (§ 8.057.4), OAC filing deadlines are jurisdictional

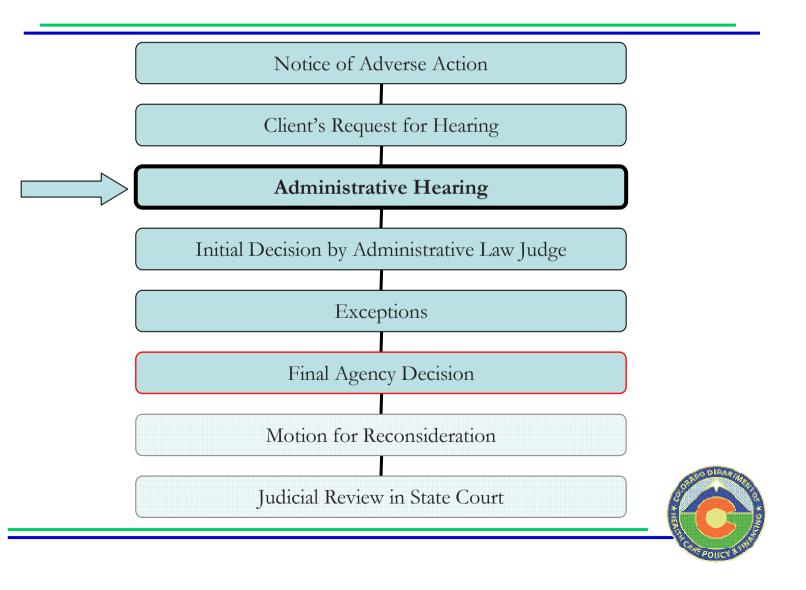


Tips: Talking with the Other Side During an Appeal

• If a client represents himself, you can always talk to the client

• If a client hires an attorney or has a non-attorney representative, you can talk to that person IF the client gives you a release to speak with them





Administrative Hearing

- Hearings are conducted by the Office of Administrative Courts (OAC)
 - 633 Seventeenth Street, 13th Floor, Denver, CO 80202
- An Administrative Law Judge (ALJ) presides over the hearing
- Hearings may be "face-to-face" or telephonic



Purpose of the Administrative Hearing

- The judge will make two kinds of determinations
 - fact findings
 - legal conclusions
- The judge will issue an Initial Decision, which forms the basis for the Final Agency Decision



Tips: Your Role at the Hearing

This is your chance to present your

entire case:

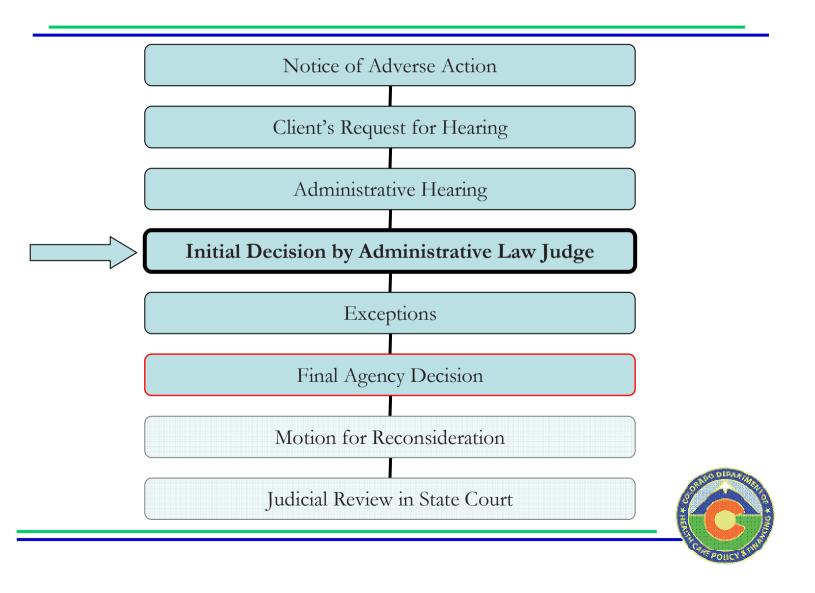
- Facts
- Law



Present facts through evidence

- Witness testimony
- Documentary evidence

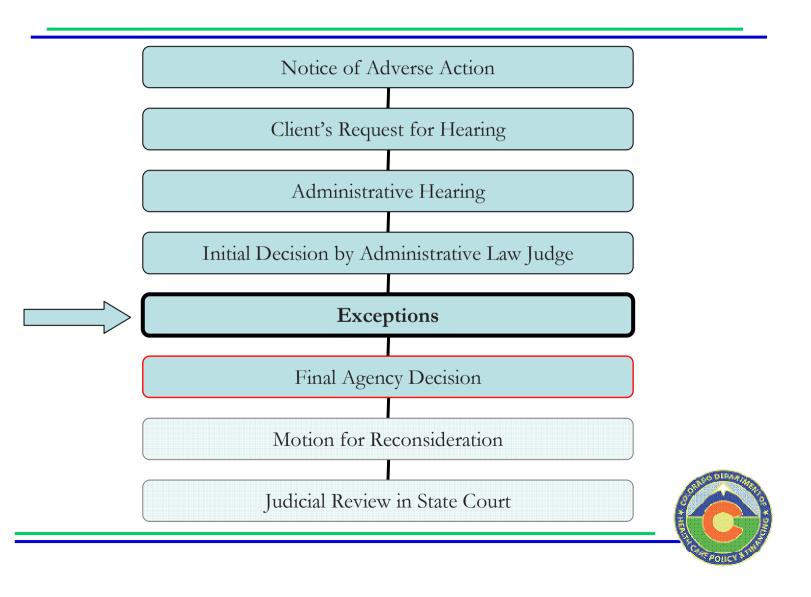




Initial Decision

- The judge will issue a written Initial Decision (ID) within 20 days
- The ID and all case files are transmitted from the Courts (OAC) to the Office of Appeals at HCPF.
- You have an opportunity to review the ID and decide if you want to file an Exception to the Decision
- Do not implement any changes based upon the ID



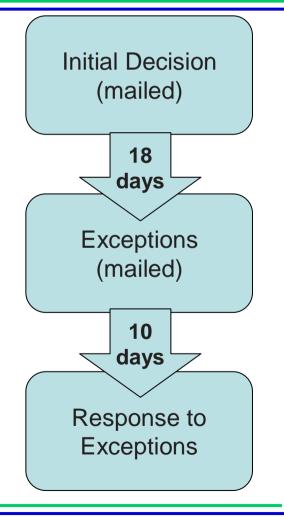


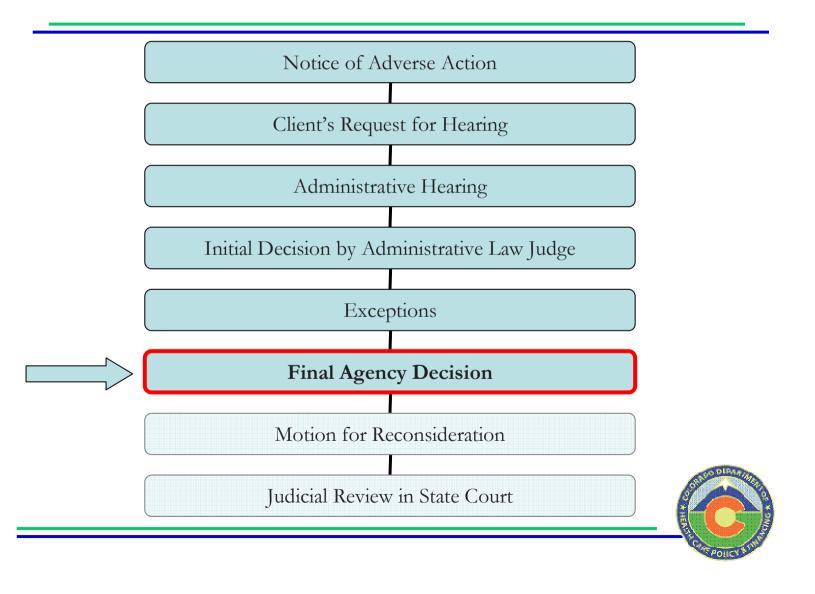
Exceptions

- Exceptions are used to challenge an Initial Decision
- They are filed with the Office of Appeals (OA) at HCPF
- You must raise all concerns with the initial decision: factual and legal
- The OA reviews the entire case and exceptions and decides how to proceed

Timelines for Exceptions

- Exceptions must be filed 18 days from date Initial Decision served by Office of Appeals (OA)
- Response to Exceptions must be filed 10 days from date Exceptions served by OA
- Timelines are when OA must receive the documents (not postmark)





Final Agency Decision (FAD)

• Prepared by the Office of Appeals

Reviewed and Signed by Client Services

Director at HCPF

A copy is mailed to all parties

• The FAD is effective 3 days after date issued





Follow-up to FAD

- If the FAD is favorable to client, corrective action should be taken within 3 working days after effective date
- If client disagrees with FAD, he may:
 - seek reconsideration with Office of Appeals within 15 days
 - file request for judicial review to Denver District Court
- You may not file for judicial review
 - As a representative of HCPF, you are bound by the Agency's Final Decision



Review of Presentation Objectives

- Walk through the Client Appeals Process
 - Define key terms
 - Clarify timelines
 - Examine potential outcomes
- Clarify case worker responsibilities
- Provide tips and pointers to make the process smoother



Contact Information

For more information about the appeals process, contact the Office of Appeals at

HCPF:

Susan Latchford

Recipient Appeals Coordinator

1570 Grant Street

Denver, CO 80203

303-866-5654



